

Excerpt from the 2013 Trafficking in Persons (TIP) Report

UKRAINE – Tier 2 Watch List

Ukraine is a source, transit, and, increasingly, destination country for men, women, and children subjected to forced labor and sex trafficking. Ukrainian victims are subjected to trafficking in Ukraine as well as in Russia, Poland, Iraq, Spain, Turkey, Cyprus, Republic of Seychelles, Portugal, the Czech Republic, Israel, Italy, United Arab Emirates, Montenegro, the United Kingdom, Kazakhstan, and Tunisia. Foreign nationals, including from Moldova, Uzbekistan, Pakistan, Cameroon, and Azerbaijan, are subjected to forced labor in Ukraine. Ukrainians most at risk of trafficking are from rural areas with limited access to employment opportunities and are often targeted by Ukrainian recruiters using fraud, coercion, and debt bondage. Victims of labor trafficking are exploited in construction, agriculture, manufacturing, domestic work, the lumber industry, nursing, and forced begging. Children in orphanages and crisis centers continue to be particularly vulnerable to trafficking within Ukraine.

The Government of Ukraine does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these steps, the government did not demonstrate evidence of overall increasing efforts to address human trafficking – particularly in terms of devoting resources to investigating trafficking crimes and protecting trafficking victims; therefore, Ukraine is placed on Tier 2 Watch List. During the reporting period, the government issued several decrees and regulations in an effort to fully implement the comprehensive anti-trafficking law passed in 2011. Ukrainian courts sentenced more trafficking offenders to prison than in the previous reporting period. However, the national referral mechanism (NRM) did not function effectively in many regions, resulting in very few identified victims being granted official victim status by the government. As a result of dismantling the specialized anti-trafficking police unit in 2011, the number of trafficking investigations, prosecutions, and convictions decreased in 2012 and the government did not proactively identify and refer victims to services. Moreover, the government did not allocate funds to anti-trafficking efforts in 2012.

Recommendations for Ukraine: Expand the NRM to all regions of the country and ensure effective implementation through systemic training of government officials and front-line responders on their respective roles and responsibilities to protect and assist victims of trafficking; ensure government officials are aware of the rights of victims under the anti-trafficking law and are prepared to provide assistance according to their respective responsibilities; dedicate more law enforcement resources to investigating human trafficking; ensure that victims of trafficking who come forward to obtain official status are not subjected to repeated interviews with multiple officials; harmonize migration and employment legislation to ensure foreign and stateless victims of trafficking are able to obtain temporary residency status and seek employment as permitted under the anti-trafficking law, and clarify procedures for

doing so; formalize agreements with and fund NGOs providing case management services to victims of trafficking; ensure the full range of protective measures allowed under the witness protection law are consistently applied in practice for victims of trafficking; sufficiently fund full implementation of the national action plan; strengthen the NRM by building the capacity of officials to identify child trafficking victims and institute screening for trafficking in crisis centers and orphanages through child-friendly practices; and collect disaggregated data based on sex or labor trafficking.

Prosecution

The Government of Ukraine significantly reduced its anti-trafficking law enforcement efforts in 2012. Article 149 of the criminal code prohibits all forms of trafficking and prescribes penalties from three to 15 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape. The Ministry of Interior reported 162 criminal investigations into trafficking offenses in 2012, a significant decrease compared to 197 in 2011 and 257 in 2010. The government prosecuted 122 trafficking cases under article 149 in 2012, compared with 135 in 2011 and 111 in 2010. The government convicted 115 trafficking offenders in 2012, a decrease from 158 in 2011 and 120 in 2010. Of the 115 convicted trafficking offenders, 65 were sentenced to imprisonment terms ranging from less than one year, to between 10 and 15 years. Forty-two defendants were given suspended sentences and the assets of 32 defendants were confiscated. The government did not identify which law enforcement efforts involved sex trafficking and which involved labor trafficking.

In its reorganization of the Ministry of Interior in 2011, the anti-trafficking police unit was subordinated to the General Crimes Department. Following this change, many detectives trained in specialized anti-trafficking investigation techniques left the unit; the majority of detectives in the regions were new and had little experience with trafficking crimes, and a reduced percentage of time was spent on investigating trafficking offenses. The number of detectives assigned to trafficking crimes at the ministry's headquarters was cut to 16 in 2012, from approximately 70 detectives in 2010. The number of detectives in the regions was cut on average by 50 percent. IOM trained 108 law enforcement officers from 27 regions' anti-trafficking units. NGOs reported that judges have not received adequate training and some did not appear to know how to properly adjudicate child trafficking cases. Ukrainian officials did not recognize some 16- and 17-year-old victims of commercial sexual exploitation as children and charged them as offenders.

During the reporting period, authorities uncovered a scheme in which Ukrainian women were transported to Germany and subjected to sex trafficking, facilitated by the use of fraudulent Ukrainian documents and Schengen visas from contacts at the Polish Consulate in Lutsk. As a result of this Ukrainian police investigation, the Polish government fired officials from the consulate. Different groups of Moldovan and Uzbek victims of trafficking were subjected to forced labor in agriculture in Ukraine. In both cases, the authorities opened criminal cases; however, the prosecutors charged defendants in the case of the Moldovans under a statute that punishes severe violations

of labor law rather than under anti-trafficking statutes, which carry more stringent penalties.

The Government of Ukraine did not report any investigations or prosecutions of government employees for alleged complicity in trafficking-related offenses during the reporting period, despite reports of widespread corruption in the government. For example, a Pakistani recruiter and Ukrainian factory owner were charged with trafficking in 2011—the Pakistani recruiter was sentenced to five years' imprisonment, while the Ukrainian factory owner with close relations with local authorities was found guilty of violating a lesser labor law and was simply fined. Upon appeal on behalf of the victims, the court vacated the verdict and sent the case of the Ukrainian factory owner back for a new trial, which is still pending.

Protection

The government did not expand its victim protection efforts during the reporting period, identified fewer trafficking victims, and officials were not trained on their responsibilities under the NRM. The government reported that 187 victims of trafficking were identified in 2012, a significant decrease compared to 294 in 2011 and 277 in 2010. Forty-seven of the victims identified in 2012 were men and 16 victims were children. Only 16 of the 187 victims identified by law enforcement in Ukraine were granted formal victim status by the government under the new procedures affording them the right to access legal, medical, and social assistance. In 2012, IOM reported assisting 139 Ukrainian, 46 Moldovan, and 10 Uzbekistani victims of trafficking in Ukraine, of whom 56 percent were men. Eighty percent of victims identified by IOM had been subjected to forced labor. The government did not fund any anti-trafficking protection activities in 2012. Planned funding for 2013 to 2015 includes the equivalent of approximately \$120,000 annually from the central state budget to combat trafficking in persons. International donors continued to provide the majority of funding for anti-trafficking activities and assistance to victims. Government centers for socio-psychological assistance and centers for mothers and children accommodated 23 victims of trafficking during the reporting period. Government social workers responsible for assessing trafficking victims' needs and drafting rehabilitation plans had large caseloads and faced high turnover rates. For the first time, the government issued regulations with criteria by which identified victims of trafficking could be granted official status, receive financial assistance, and be provided with comprehensive assistance. In practice, however, government officials were unaware of the new regulations and their respective responsibilities to serve victims of trafficking who attempted to obtain assistance. None of the 16 officially recognized victims received the one-time payment of the equivalent of approximately \$135 afforded to them under a resolution adopted in 2012.

Under the anti-trafficking law, implementation of the NRM is the responsibility of local administrations. As a result, different regions have designated different local departments as coordinators responsible for identifying and assisting victims of trafficking. This created significant confusion among NGOs that previously functioned to serve victims of trafficking in coordination with prior, informal points of contact in the government, and procedures for granting official status to victims of trafficking did

not work in some regions. The Ministry of Social Policy listed local administration points of contact on its website in an effort to address this problem. NGOs reported that local officials designated to grant formal victim status did not yet have the necessary assessment and interviewing skills or experience to carry out this duty effectively. NGOs reported concerns that victims who came forward to obtain official status as a victim of trafficking were subjected to multiple interviews and asked insensitive and invasive questions. Provisions in the NRM related to child victims of trafficking and how to provide services to this vulnerable group were unclear. Proactive victim status determination for victims who were not participating in active criminal proceedings was limited. NGOs reported that police, NGOs, and victims lacked trust in the abilities of government social service workers to properly determine and grant formal victim status, which prevented victims from obtaining services. There were no reports of victims being detained or punished for unlawful acts committed as a direct result of their being subjected to human trafficking in 2012. While the anti-trafficking law affords victims of trafficking the right to remain in the country, in practice, no such victims obtained temporary residence status; the migration service did not recognize trafficking victim status as a basis for protected status under the foreigner's law. As a result, victims officially recognized by the government remained without legal status in the country and in fear of deportation. Even though the anti-trafficking law affords victims two years of access to services, this was available in theory only, as foreign victims could not obtain legal status to remain in Ukraine. The government acknowledged this issue required a change in legislation. Four foreign victims with official victim status from the government were not issued temporary residency status or granted permission to seek legal employment. A range of protective measures are available under Ukrainian witness protection law. In practice, however, these measures were rarely applied by prosecutors and victims of trafficking serving as witnesses were often not treated in a victim-sensitive manner.

Prevention

The Government of Ukraine continued limited trafficking prevention activities in 2012. The government, in cooperation with OSCE, conducted an anti-trafficking information campaign to raise awareness about all forms of trafficking reaching approximately 2.3 million people. The national action plan for 2012-2015, formally adopted by the government during the last reporting period, was not supported by any budget allocations at the national and local levels to ensure full implementation. The Ministry of Social Policy continued in its role as national anti-trafficking coordinator and an interagency council of ministries and NGOs was established. The government, in continued cooperation with IOM, conducted four counter-trafficking pre-deployment trainings for Ukrainian troops assigned to multinational missions. The government did not demonstrate specific efforts to reduce the demand for commercial sex acts and forced labor. The government did not report any efforts to reduce participation in international child sex tourism by Ukrainian nationals.